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David Sawyer
Vice Chairman

June 26, 2008

MUR # 6031

Thomasenia Duncan, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Complaint against Hagan Senate Committee, Inc. and Kay Hagan

Dear Ms. Duncan:

This is a complaint pursuant to 2 U.S.C. §437g(a)(1) and 11 C.F.R. §111.4 against the Hagan Senate Committee, Inc., the principal campaign committee of Kay Hagan ("Hagan Committee") and Kay Hagan, Democratic candidate for the U.S. Senate from North Carolina ("Hagan") (collectively hereafter "Respondents").

The facts below disclose Respondents' violation(s) of numerous provisions of the Federal Election Campaign Act of 1971, as amended (the "Act" or "FECA"), and a willful and continuing disregard by Respondents of federal campaign finance rules and regulations requiring candidates to timely and fully disclose campaign contributions.

The Complaint is filed by the North Carolina Republican Party and Chris McClure, Executive Director ("Complainants"), located in and a resident of Raleigh, North Carolina.

Violation #1: Respondent Hagan Committee has received and improperly disclosed over \$188,000 in excessive contributions.

The statutory contribution limits per election for the 2007-08 election cycle are \$2300 from an individual and \$5,000 from a multi-candidate PAC. 11 C.F.R. §110.1(b)(1); 11 C.F.R. §110.2(b)(1). When a committee receives a contribution in excess of the limits from any donor, the committee is required to take certain steps immediately to properly process and disclose the

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contribution in order to bring the contribution into compliance with the legal limits. 11 C.F.R. §110.1(b)(5)(ii); 11 C.F.R. §110.1(k)(3).

It is not permissible under federal law for a committee to treat and disclose a single contribution as though it had been received in separate checks to avoid the requirements of the FEC regulations governing reporting, disclosure and donor notification.

There are 51 contributions totaling \$108,500.00 disclosed on the Hagan Committee's 2007 year-end report and another 46 totaling \$76,031.31 in the Hagan Committee's 2008 pre-primary report which the Hagan Committee has failed to report in compliance with FEC regulations governing excessive contributions.

The Hagan Committee's combined 2007 year end report and 2008 pre-primary report reflect 97 excessive contributions in a total amount of \$184,531.31 in violation of 11 C.F.R. §103.3(b)(5).

Contributions in excess of the federal limits are reported by the Hagan Committee in both of its reports filed to date as though each contribution was received in separate checks. *Exhibit A, Questionable Excessive Contributions, Hagan Committee 2007 Year-End Report Exhibit B, Questionable Excessive Contributions, Hagan Committee 2008 Pre-Primary Report.* Unless the Hagan Committee indeed received every contribution reported in this manner in separate contributions (which is highly unlikely), the committee has violated the statutory provisions governing excessive contributions to federal candidates.

Only one reference to a redesignated excessive contribution appears on either report of the Hagan Committee. Yet, even that excessive contribution was not disclosed or reported in conformance with FEC regulations. 11 C.F.R. §103.3(b)(5). *Exhibit C, Page 173 Hagan Committee's 2007 Year-End Report.*

The Hagan Committee has utterly disregarded federal law in the receipt, processing and disclosure of excessive contributions. Absent proper processing and reporting of the contributions, the amounts in excess of the primary election contributions are illegal and constitute excessive contributions which must be returned by the Hagan Committee to the donors. 11 C.F.R. §103.3(b)(5); 11 C.F.R. §§110.1(b)(5)(i), (ii)(A); 11 C.F.R. §§110.1(k)(3)(i), (ii)(A).

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FEC regulations allow a committee to accept and presumptively redesignate to the general election contributions that exceed the permissible limits for a single election. 11 C.F.R. §§110.1(b)(5)(ii)(B), (C).

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FEC regulations also allow a committee to retribute from contributions drawn on a joint account amounts in excess of the contribution limits from a single donor to the other signor on the account. 11 C.F.R. §110.1(k)(3)(ii)(B).

However, in order to invoke the FEC regulations allowing redesignation or retribution, the excessive contributions must either be accompanied by the donor's written redesignation to the general election, or by retribution to a joint donor of the amount exceeding the limits. 11 C.F.R. §110.1(b)(5)(ii)(A) and §110.1(k)(3)(ii)(A). Absent written authority received with the contribution, the committee is required by law to notify the donor that the contribution was excessive and that the impermissible amounts are being redesignated to the general election or retributed to the other signor on the account from which the contribution check was drawn. A donor must also, within sixty days, be given notice of opportunity to request a refund of the excessive contribution. 11 C.F.R. §§110.1(b)(5)(ii)(B)(5), (C)(6); 11 C.F.R. §110.1(k)(3)(ii)(B).

Redesignation and retribution notice to the donor must be made within 60 days of the committee's receipt of the contribution. 11 C.F.R. §§110.1(b)(5)(ii)(B)(6), (C)(7); 11 C.F.R. §110.1(k)(3)(ii)(B)(3).

Significantly, with respect to Respondent Hagan Committee, there are specific FEC regulations governing reporting and disclosure of such excessive contributions, which have not been followed by the Hagan Committee. 11 C.F.R. §103.3(b)(5).

Violation #2. The Hagan Committee has failed to timely disclose the receipt of late contributions of \$1,000 or more within the twenty (20) day period just before the North Carolina primary election as required by federal law.

Federal law requires that any contribution of \$1,000 or more received by an authorized committee of a candidate after the 20th day, but more than 48 hours before the day of the election must be publicly disclosed within 48 hours of receipt of the contribution. 2 U.S.C. §437d(a)(1); 11 C.F.R. §104.5(f). Committees failing to file the required notices within 48 hours are considered "non-filers" and are subject to fines. 11 C.F.R. §111.32.

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Respondent Hagan Committee is a non-filer by virtue of failing to timely disclose late contributions as follows:

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April 17, 2008	\$1,000	April 19, 2008	April 21, 2008
April 18, 2008	\$1,000	April 20, 2008	April 21, 2008
April 18, 2008	\$2,000	April 20, 2008	April 21, 2008
April 24, 2008	\$1,000	April 26, 2008	April 27, 2008
April 24, 2008	\$1,000	April 26, 2008	April 27, 2008

Sas Exhibit D, 48 Hour Notice of Contributions Received, Filed April 21, 2008 and Exhibit E, 48 Hour Notice of Contributions Received, Filed April 27, 2008.

Violation #3: The FEC's March 27, 2008 letter to Hagan Committee notified Respondents of their failure to fully disclose legally required information regarding donors to the Hagan Committee pursuant to 2 U.S.C. §434(b)(3)(A) and 11 C.F.R. §104.3(a)(4)(i).

FEC regulations require a committee to use its "best efforts" to collect and disclose required information about donors. 11 C.F.R. §104.3(a)(4)(i); 11 C.F.R. §104.7. In its 2007 year-end report filed on January 31, 2008, Respondent Hagan Committee reported contributions from 427 donors but failed to disclose legally required information for 120 of the donors. In other words, for its 2007 year end report, the Hagan Committee met the disclosure requirements required by federal law for only 72% of its donors.

After receiving a letter from the FEC dated March 27, 2008 requesting additional information from the Hagan Committee, and specifically citing the Committee's failure to properly and lawfully disclose contributor information in its initial year-end report, Respondents still failed to meet disclosure requirements for a substantial numbers of donors. In fact, Respondent's 'amendments' to its year end report added employer / occupation information for only an additional two donors, leaving 118 donors whose information still does not comply with the provisions of federal law. ***Exhibit F, 'Amendments' to 2007 Year End Report.***

Then, following its egregious failure to fully disclose legally required donor information on its 2007 Year End Report, Respondent Hagan Committee's 2008 Pre-Primary Report filed on April 24, 2008 reflected records of 848 donors, 252 of which were missing information required by

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law to be disclosed. This constituted only 70% of the required donor information, a figure even lower than the committee's 2007 Year-End Report. Respondents Hagan Committee and Kay Hagan have filed no supplemental information and thus are continuing to disregard the requirements of federal law governing disclosure of donor information.

FEC regulations require a candidate's authorized committee to disclose the identification of any person who makes a contribution to the committee in excess of \$200 in the aggregate per election cycle. 11 C.F.R. §104.3(a)(4)(i). The committee's reports must disclose the full name, mailing address, occupation, and employer of all those contributing in excess of \$200 over the course of the election cycle. 11 C.F.R. §100.12. Committees and their treasurers must make "best efforts" to obtain, maintain, and report this required information. 11 C.F.R. §§102.9(d); 11 C.F.R. §104.7(a)(1). If information is still incomplete as of the filing date, the committee and treasurer must continue to make best efforts to obtain and report information required by law. 11 C.F.R. §§102.9(d); 11 C.F.R. §104.7(a)(2).

Respondents have failed to meet their legal obligations to collect and report donor information required by federal law.

Responsibility of Kay Hagan for Violations

Respondent Kay Hagan is the candidate whose authorized committee continues on an ongoing basis to disregard federal law governing contributions, reporting, processing, and disclosure of its receipts. The purpose of the campaign finance regulations is to assure and protect the public's right to know who is contributing to candidates for federal office and the full amount of the contributions. None of the provisions of federal law at issue in this complaint are new, having been adopted as part of the Federal Election Campaign Act of 1971, as amended in 1974. Kay Hagan is ultimately responsible for the financial accuracy and disclosures made by her campaign and is complicit in her campaign committee's violations of federal law cited herein.

Conclusions

Respondents, each of them, have violated the provisions of the Act and FEC regulations and should be punished in accordance with 2 U.S.C. §§437g(a)(5), (6) and 11 C.F.R. §111.24 for their ongoing violations of the Act and FEC regulations.

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Respectfully submitted,

Linda Daves
Chairman

David Sawyer
Vice Chairman

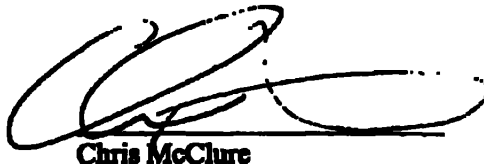
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AFFIDAVIT

I hereby swear upon penalty of perjury that the above and foregoing Complaint is true and correct to the best of my knowledge and belief, based upon the information from the public sources referenced herein.


Chris McClure



Person subscribed before me this 20th day of June, 2008


Notary Public

My Commission Expires: 8/25/11

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